

Serial No.: 10/587,265
Atty. Docket No.: P69471US1

REMARKS

The Office Action mailed May 25, 2010, has been carefully reviewed and, by this Amendment, Applicants have amended claims 1-13. Claims 1-30 are pending in the application. Claims 1, 14, 22 and 29 are independent. Claims 14-30 are withdrawn.

By telephone conversation with the undersigned on April 8, 2010, the Examiner required restriction as between three groups of inventions, namely Group I, claims 1-13, drawing to a product; Group II, claims 14-21, 29 and 30, drawn to a process; and Group III, claims 22-28, drawn to a product. Applicants provisionally elected Group I, claims 1-13; this election is hereby affirmed.

The Examiner objected to claims 1 and 13 as containing informalities. Specifically, the Examiner stated that claim 1 was indefinite in that both the diameter and average size are the same properties. With the amendments set forth herein, claim 1 has been clarified to use the term "diameter" to define both the minimum size (in diameter) of each grotto and the average size (in diameter) of all of the grottos. As amended, claim 1 is not indefinite as the grottos are simply defined therein both in terms of their minimum individual diameter (at least 5 μ m) and their range of diameters as a group, which range yields an average grotto

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diameter of less than 300 μ m. Withdrawal of the objection is requested.

With respect to claim 13, the limitation "adhesive element" in line 2 has been corrected to refer to "absorbing element". Withdrawal of the objection is therefore requested.

The Examiner rejected claims 1-3 and 5-13 under 35 U.S.C. 103(a) as being unpatentable over EP 0 806 210 to Gilman et al. ("Gilman"). Also under 35 U.S.C. 103(a), the Examiner rejected claim 4 as being unpatentable over Gilman in view of U.S. Patent No. 6,326,421 to Lipman.

As set forth in claim 1, the present invention is directed to an absorbing element having adhesive properties including hydrocolloids in an elastomeric matrix. At least a part of a first facade of the absorbing element includes a plurality of grottos. Each grotto is at least 5 μ m in diameter, and the average diameter of the plurality of grottos is less than 300 μ m. Contrary to the Examiner's conclusion, this structure is not shown or suggested by Gilman.

Gilman discloses an adhesive wafer with a skin-contacting surface that is embossed to form depressions 18. The purpose of the depressions 18 is to limit the extent of surface contact between the wafer and the skin and to make it unlikely that, upon replacement of the adhesive wafer with a new wafer of the same

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type, the same skin surfaces previously contacted will be contacted to the same extent by the new wafer (see Gilman, column 1, lines 19-25).

As measured across the opening of each depression, the size of the depressions in Gilman "should fall within the range of about 0.5 mm (0.0197") to 7 mm (0.275")" as stated in column 7, lines 1-2. Hence, the depressions in Gilman are significantly larger in "size" than the minimum grotto diameter being claimed as part of the present invention and do not, as a group, have an average size or diameter of less than 300 μ m.

Further, Gilman states that the size of the above measurement across the opening of each of the depressions was determined based on the need to "reduce the possibilities that the depressions will become closed or obliterated by deformation of the adhesive material while the wafer is being worn" (column 6, lines 53-55). This statement in Gilman of a recognized need to prevent the depressions from being closed or obliterated by deformation clearly teaches against reducing the size of the depressions as smaller depressions would be more likely to close or be obliterated as the wafer is deformed by movement of the wearer in use since less deformation would be necessary to block smaller openings.

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In addition, the present invention is directed to an entirely different problem than that being addressed by Gilman. According to the present invention, the grottos are included within the first facade of the absorbing element in order to provide better access for water to reach the hydrocolloids, thereby altering the water absorption properties and profile (see the specification on page 5, lines 3-7). Gilman is silent in regard to even recognizing a need for providing better water access to the hydrocolloids. Hence, there is nothing in Gilman to suggest to the skilled person that small grottos such as those claimed in claim 1 should be made in order to obtain this effect. On the contrary, the Gilman structure would be rendered less effective for its expressed purpose were the depressions taught therein to be reduced in size as suggested by the Examiner.

For at least the foregoing reasons, claim 1 is patentable over Gilman. Claims 2-13 are also in condition for allowance as claims properly dependent on an allowable base claim. Applicants also note that claims corresponding in scope to claims 1-13 have recently been approved for grant in the sister European application. Favorable reconsideration and allowance of claims 1-13 is requested.

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With this amendment and the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

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